

**UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE**

IMMIGRANT LEGAL ADVOCACY PROJECT )  
and AMERICAN CIVIL LIBERTIES UNION )  
OF MAINE FOUNDATION, )

Plaintiffs, )

v. )

U.S. IMMIGRATION AND CUSTOMS )  
ENFORCEMENT, )

Defendant. )

Case No. 2:21-CV-00066-JAW

**JOINT STATUS REPORT**

Pursuant to the Court’s Procedural Order of May 13, 2021 (ECF No. 13), Plaintiffs Immigrant and Legal Advocacy Project and American Civil Liberties Union of Maine Foundation (together, “Plaintiffs”) and Defendant United States Immigration and Customs Enforcement (“ICE” or “Defendant” and, together with Plaintiffs, the “Parties”) submit the following Joint Status Report:

1. Plaintiffs sent a request to ICE pursuant to the Freedom of Information Act (“FOIA”) on January 15, 2021 (the “Request”), a true and correct copy of which is attached to Plaintiffs’ First Amended Complaint as Exhibit A (ECF No. 4-1).

2. On March 3, 2021, Plaintiffs filed the instant lawsuit against ICE. ECF No. 1. The operative First Amended Complaint, filed on March 4, 2021, asserts three counts against ICE under the FOIA: (i) Count I alleges a failure by ICE to provide a determination on the Request within 20 business days, as required by 5 U.S.C. § 552(a)(6)(A)(i); (ii) Count II alleges a failure by ICE to make the records sought in the Request “promptly available” to Plaintiff, as required by 5 U.S.C. § 552(a)(3)(A); and (iii) Count III alleges a failure by ICE to make a determination on Plaintiff’s request for expedited processing of the Request within 10 days, as required by 5 U.S.C. § 552(a)(6)(E)(ii)(I). *See* ECF No. 4, ¶¶ 32-41.

3. On April 7, 2021, ICE answered the Complaint. ECF No. 8.

4. On May 13, 2021, the Court issued a Procedural Orders that adopted the Parties' proposal for proceeding, pursuant to which Defendant agreed (a) to process at least 500 pages of potentially responsive documents per month beginning in June 2021; and (b) to produce any responsive documents from the processed subset of pages no later than the last day of each month, until production is complete. *See* ECF No. 13.

5. In December 2021, Defendant informed Plaintiff that it had completed its review and processing of the approximately 3,200 pages of documents that ICE initially identified as being potentially responsive to the Request. Defendant further confirmed that ICE had sent approximately 389 pages of potentially responsive documents to other federal agencies for referrals or consultation.<sup>1</sup> Specifically, Defendant advised that:

- a. 4 pages have been sent by ICE to the General Services Administration (GSA) for consultation. Defendant has since received GSA's input on those 4 pages and produced the responsive materials to Plaintiff on December 10, 2022.
- b. 205 pages have been sent by ICE to GSA as referrals. GSA has reviewed and processed all 205 pages, and has produced responsive materials to Plaintiff directly on various dates between June 2021 and November 2021.
- c. 8 pages have been sent by ICE to the U.S. Customs and Border Protection ("CBP") on a referral basis. Defendant's counsel is attempting to obtain an update from CBP on the status of this referral.

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<sup>1</sup> A federal agency can *refer* records that are potentially responsive to a FOIA request to another agency for direct handling when the records originated with that other agency. By contrast, when records originated with the agency processing the request, but contain within them information of interest to another agency, the agency processing the request will typically *consult* with that other agency prior to making a release determination.

- d. 172 pages have been sent by ICE to the U.S. Department of Justice (“DOJ”) on a referral basis. Defendant’s counsel is attempting to obtain an update from DOJ on the status of this referral.

6. Plaintiffs and Defendant have also begun the process of preliminarily discussing potential challenges by Plaintiffs to Defendant’s redactions to the documents produced by ICE in response to the Request.

7. The Parties have scheduled a further conferral meeting for January 31, 2022. At this meeting, the Parties will further discuss any disputed redactions and the possibility of narrowing the disputed redactions.

8. To allow for additional time for the processing of the CBP and DOJ referrals, as well as for the Parties to discuss and potentially narrow the scope of their substantive disagreements, the Parties jointly request that the Court direct the Parties to file a further joint status report in 45 days, *i.e.*, by February 28, 2022.

9. Additionally or alternatively, the Parties can be available at the Court’s convenience for a telephonic or Zoom hearing to discuss the case status.

Respectfully submitted,

DARCIE N. MCELWEE  
United States Attorney

Dated: January 12, 2022  
Portland, Maine

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**CERTIFICATE OF SERVICE**

I hereby certify that on January 12, 2022, I electronically filed the foregoing using the CM/ECF system, which will send electronic notifications of such filing to all counsel of record.

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